Better lawmaking - 15th annual report from the Commission pursuant to Article 9 of the Protocol on the application of the principles of subsidiarity and proportionality

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The European Parliament adopted a resolution on better lawmaking – 15th annual report from the Commission pursuant to Article 9 of the Protocol on the application of the principles of subsidiarity and proportionality.

The resolution stresses the vital importance of making **simple, clear laws** that EU citizens can understand and emphasises that European institutions must **respect the principles of subsidiarity and proportionality when formulating proposals**.

Members stress that all draft legislation must include reasons for concluding that the objective can be better achieved by EU action, substantiated by qualitative and, wherever possible, quantitative indicators, in accordance with the protocol on the application of the principles of subsidiarity and proportionality annexed to the TFEU.

The resolution firmly supports the process of better regulation aimed at increasing the transparency, effectiveness and coherence of European Union legislation. It emphasises the **Commission's key role, as the institution with the power of legislative initiative**, in drafting high-quality legislative proposals. Parliament undertakes to make every effort to examine such proposals promptly, in accordance with the appropriate legislative procedure. It also emphasises the importance of cooperating with Member States to ensure that legislation is correctly implemented.

Members consider that the improvement of interinstitutional cooperation in this vast area requires a revision of the Interinstitutional Agreement on better law-making of 2003. They urge the Commission, on the basis of the political agreement embodied in the resolution of 9 February 2010 on a revised Framework Agreement between the European Parliament and the Commission, to make every effort to **ensure that Parliament and the Council are treated as equals in the lawmaking process**, thus implementing the principle of equal treatment between Parliament and the Council deriving from the Lisbon Treaty, in particular by simultaneously and comprehensively notifying both institutions of all events and developments affecting that process and ensuring equal access to meetings and to proposals or other information.

The resolution stresses that the process of **simplifying** legislation must not lead to a lowering of the standards laid down in current legislation, which is why consultations with all interested parties, including social partners, must be an integral part of the process.

Members welcome the closer involvement of **national parliaments** in the European legislative process. They welcome the action taken by the Commission to ensure an effective exchange of information with national parliaments and to inform Parliament and the Council thereof. They also encourage national parliaments to distinguish clearly between opinions concerning the principle of subsidiarity and opinions on the substance of Commission proposals.

Impact assessment: underlining the Commission's basic responsibility to carry out impact assessments, Members recall that new proposals should be evaluated with regard to the full extent of their impact, in accordance with the principle of an integrated approach, which means that their **economic, social and environmental consequences** all need to be analysed.

The resolution underlines the need to examine the **social effects** of legislative proposals, including their impact on the European labour market and living standards. It underlines once again the necessity to examine carefully the impact of legislation on **businesses** and suggests that the Commission should carry out an impact assessment on all proposals to **reduce administrative burdens**.

Members welcome, in particular, the fact that the Commission's new Impact Assessment Guidelines call for analysis of the impact of forthcoming legislation and administrative initiatives on SMEs (**the SME test**) and for the results of such analysis to be taken into account when proposals are drafted. They encourage all Parliament committees to precede any discussion of a Commission legislative proposal with an exchange of views with the Commission on the impact assessment.

Parliament believes that objective impact assessments are an extremely important tool for assessing Commission proposals and calls, therefore, for scrutiny of the conduct of impact assessments by an independent body, which should, however, be accountable to Parliament. In this regard, it emphasises that the quality of impact assessments should be subject to continuous monitoring.

The resolution recalls that, for an impact assessment to be objective, the Commission must systematically consult all interested parties, including small and medium-sized enterprises. It recognises the need to ensure that interested parties are better informed of the possibility of taking part in consultations and calls for the extension of the eight-week consultation period.

The Commission is called upon to carry out systematically **ex-post assessments** of adopted legislation in order, among other things, to verify insofar as possible the accuracy of the relevant impact assessments.

Reducing administrative burdens: the resolution welcomes the results of the Commission's work to date in drafting proposals which, once adopted, will enable administrative burdens to be reduced by as much as 33% by 2012, an improvement on the earlier commitment to a 25% reduction. It notes that savings generated in this way could amount to more than EUR 40 billion.

Members emphasise the importance of reducing the costs for businesses operating in the European Union, in order to enable them to function effectively in difficult economic conditions and compete globally. They underline the need to streamline public administrative procedures. They also stress that administrative burden reduction must focus on unnecessary information requirements and, as such, fully supports the 'only once' principle set out in the Small Business Act. Moreover, members emphasise that reducing administrative burdens for businesses must not have any negative social or environmental consequences.

The resolution draws particular attention to the progress made in the work on those Commission proposals that offer the greatest potential for savings (i.e. the exemption of microenterprises from Union accounting requirements and the amendment of the VAT Directive to facilitate electronic invoicing).

Noting that the baseline programme for the measurement of administrative burdens has proved to be a useful but costly method, they encourage the Commission to consider alternative methods of measuring administrative burdens, such as consultation with interested parties, which would allow the prompt removal of burdens in specific cases. Members also share the Commission's opinion that electronic communication constitutes an excellent tool for reducing administrative burdens and encourages it to realise the ideas set out in the e-Commission 2006-2010 framework and the i2010 strategy aimed at

modernising administration in Europe. The Commission is urged to continue to implement sectoral plan measures to reduce administrative burdens.

Members point out that, to ensure that the programme to reduce burdens is successful, active cooperation between the Commission and the Member States is necessary in order to avoid discrepancies in interpretation and the 'gold-plating' of legislation.

The Commission is called upon to extend the Action Programme for Reducing Administrative Burdens in the EU to new priority areas and other legislative acts, and to **continue this Action Programme beyond 2012**.

Institutional and procedural comments: Members welcome the Commission's efforts so far to identify and draft the proposals for simplifying and codifying European legislation. Nevertheless, they stress the need to maintain good interinstitutional cooperation in that regard, in particular in relation to the withdrawal by the Commission of legislative proposals that are not considered essential.

The Commission is called upon to proceed with the codification of legislative acts and to present the report scheduled for 2009 detailing the achievements of the codification programme as a whole. The committee stresses that the recasting technique should always be used when amending legislation. It points out that other initiatives for simplifying legislation are subject to the ordinary legislative procedure and the corresponding deadlines.

The resolution warns against **abandoning necessary legislation** in favour of self-regulation or coregulation or any other non-legislative measure. Members believe that the consequences of such choices should be subject to careful examination in each case, in accordance with Treaty law and the roles of the individual institutions. They stress, at the same time, that soft law should be applied with the greatest of care and on a duly justified basis, without undermining legal certainty and the clarity of existing legislation, and after consultation of Parliament.

The resolution points, furthermore, to a range of other institutional changes introduced by the Lisbon Treaty that will affect lawmaking in the European Union. It emphasises in particular the importance of the **European citizens' initiative**, which has the potential to become an essential element of European public debate and welcomes the Commission's proposal for a regulation on this matter. It stresses the need for close cooperation between Parliament and the Commission to create an effective and understandable instrument, with clear criteria of admissibility, that will be in accordance with the good practice of the EU lawmaking process.

The Commission is urged to give an undertaking regarding the deadlines by which it will meet requests made by Parliament pursuant to Article 225 TFEU, with specific reference to the commitment under the Framework Agreement to draw up a report on the follow-up to all legislative initiative requests during the three months following adoption of a legislative initiative report and to submit a legislative proposal within a year at most.

Lastly, the resolution points out that the issue of better lawmaking is directly linked to the issue of **monitoring the implementation of Union law**. Members are closely following the implementation of the EU pilot project for such monitoring. However, they express concern that the proposed method for examining complaints could lead to the Commission being overly dependent on the Member States.